

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America,

Plaintiff,

v.

Criminal Case No. 13-30484

Farid Fata,

Sean F. Cox

United States District Judge

Defendant.

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ORDER CONTINUING
HEARING ON GOVERNMENT'S APPEAL OF RELEASE ORDER

The matter is currently before this Court on the Government's appeal of Magistrate Judge David Grand's release order, under 18 U.S.C. § 3145.

On August 6, 2013, Defendant Farid Fata was charged in a criminal complaint with Healthcare Fraud in violation of 18 U.S.C. § 1347. On that same date, Magistrate Judge David Grand issued an Order of Temporary Detention Pending Hearing Pursuant to Bail Reform Act.

On August 8, 2013, after conducting a hearing, Magistrate Judge Grand issued an Order Setting Conditions of Release and an Appearance Bond in the amount of \$170,000. Magistrate Judge Grand further ordered that his ruling to release Defendant on \$170,000 secured bond would be held in abeyance pending a ruling on the Government's appeal of his ruling.

On August 8, 2013, Judge David Lawson began, but did not conclude, consideration of the Government's appeal. The transcript of the hearing before Judge Lawson reflects that the Government immediately sought to appeal Magistrate Judge Grand's release order under § 3145 and, as a result, the Government did not have time to file a written motion before appearing

before Judge Lawson. The transcript also reflects that Defendant seeks to cross-appeal several of the conditions of release set by Magistrate Judge Grand, but that Defense Counsel had not filed a written motion before appearing before Judge Lawson.

At the August 8, 2013 hearing Judge Lawson stated that, for the time being, he did not see a basis to set aside Judge Grand's order, except that a hearing under 18 U.S.C. § 3142(g)(4) would be required before the Clerk's Office may accept any money towards bond. (*See* 8/8/13 Tr.). Judge Lawson did, however, state that he was not convinced that the amount of the secured bond set by Magistrate Judge Grand was appropriate. Judge Lawson further advised counsel that the issues would have to be examined further and that he, or any other judicial officer reviewing the Government's appeal, ought to be able to revisit the amount of bond in addition to holding a hearing under § 3142(g)(4) regarding the source of any money proposed to secure Defendant's release on bond. (*Id.*).

Counsel for Defendant requested that Judge Lawson continue the hearing on Friday, August 9, 2013. Judge Lawson advised that he could not do so, but that counsel could contact the judge presiding on August 9, 2013 – which is the undersigned. Thereafter, Counsel contacted this Court's chambers and this Court scheduled a hearing for 1:30 p.m. on August 9, 2013. Accordingly, this Court is now presiding over the Government's appeal of Magistrate Judge Grand's release order and Defendant's cross-appeal.

The Court hereby **ORDERS** that the hearing on the Government's appeal of Magistrate Judge Grand's release order and Defendant's cross-appeal are **CONTINUED** to **Tuesday, August 13, 2013, at 9:00 a.m.** At that time, this Court shall: 1) consider Defendant's cross-appeal of various conditions of release set by Magistrate Judge Grand; 2) determine the

appropriate amount of the secured bond that Defendant must post in order to be released; and 3) conduct a “*Nebbia* hearing,” pursuant to 18 U.S.C. § 3142(g)(4), to determine the source of any money proposed to secure Defendant’s release on bond.

IT IS FURTHER ORDERED that no later than **Monday, August 12, 2013, at 10:00 a.m.** 1) the Government shall file a written motion seeking to appeal Magistrate Judge Grand’s release order; and 2) Defendant shall file a written motion cross-appealing any conditions of release set by Magistrate Judge Grand that Defendant opposes.

IT IS FURTHER ORDERED that no later than **Monday, August 12, 2013, at 10:00 a.m.**, Counsel for the Government and Counsel for Defendants may each file a brief of no more than 10 pages, setting forth: 1) their respective positions as to the appropriate amount of the secured bond; and 2) their respective positions as to what evidentiary showing should be required of Defendant under § 3142(g)(4).

IT IS SO ORDERED.

S/Sean F. Cox
Sean F. Cox
United States District Judge

Dated: August 9, 2013

I hereby certify that a copy of the foregoing document was served upon counsel of record on August 9, 2013, by electronic and/or ordinary mail.

S/Jennifer McCoy
Case Manager